

AN ACT

relating to discipline in public schools, including the use of certain disciplinary methods and the prosecution of certain children for school-related offenses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter A, Chapter 37, Education Code, is amended by adding Section 37.0011 to read as follows:

Sec. 37.0011. USE OF CORPORAL PUNISHMENT. (a) In this section, "corporal punishment" means the deliberate infliction of physical pain by hitting, paddling, spanking, slapping, or any other physical force used as a means of discipline. The term does not include:

(1) physical pain caused by reasonable physical activities associated with athletic training, competition, or physical education; or

(2) the use of restraint as authorized under Section 37.0021.

(b) If the board of trustees of an independent school district adopts a policy under Section 37.001(a)(8) under which corporal punishment is permitted as a method of student discipline, a district educator may use corporal punishment to discipline a student unless the student's parent or guardian or other person having lawful control over the student has previously provided a written, signed statement prohibiting the use of corporal

1 punishment as a method of student discipline.

2 (c) To prohibit the use of corporal punishment as a method
3 of student discipline, each school year a student's parent or
4 guardian or other person having lawful control over the student
5 must provide a separate written, signed statement to the board of
6 trustees of the school district in the manner established by the
7 board.

8 (d) The student's parent or guardian or other person having
9 lawful control over the student may revoke the statement provided
10 to the board of trustees under Subsection (c) at any time during the
11 school year by submitting a written, signed revocation to the board
12 in the manner established by the board.

13 SECTION 2. Section 37.0021(b), Education Code, is amended
14 by adding Subdivision (4) to read as follows:

15 (4) "Law enforcement duties" means activities of a
16 peace officer relating to the investigation and enforcement of
17 state criminal laws and other duties authorized by the Code of
18 Criminal Procedure.

19 SECTION 3. Section 37.0021, Education Code, is amended by
20 amending Subsection (g) and adding Subsections (h) and (i) to read
21 as follows:

22 (g) This section and any rules or procedures adopted under
23 this section do not apply to:

24 (1) a peace officer ~~[while]~~ performing law enforcement
25 duties, except as provided by Subsection (i);

26 (2) juvenile probation, detention, or corrections
27 personnel; or

1 (3) an educational services provider with whom a
2 student is placed by a judicial authority, unless the services are
3 provided in an educational program of a school district.

4 (h) This section and any rules or procedures adopted under
5 this section apply to a peace officer only if the peace officer:

6 (1) is employed or commissioned by a school district;

7 or

8 (2) provides, as a school resource officer, a regular
9 police presence on a school district campus under a memorandum of
10 understanding between the district and a local law enforcement
11 agency.

12 (i) A school district shall report electronically to the
13 agency, in accordance with standards provided by commissioner rule,
14 information relating to the use of restraint by a peace officer
15 performing law enforcement duties on school property or during a
16 school-sponsored or school-related activity. A report submitted
17 under this subsection must be consistent with the requirements
18 adopted by commissioner rule for reporting the use of restraint
19 involving students with disabilities.

20 SECTION 4. Section 37.124, Education Code, is amended by
21 adding Subsection (d) to read as follows:

22 (d) It is an exception to the application of Subsection (a)
23 that, at the time the person engaged in conduct prohibited under
24 that subsection, the person was a student in the sixth grade or a
25 lower grade level.

26 SECTION 5. Section 37.126, Education Code, is amended by
27 amending Subsection (a) and adding Subsection (c) to read as

1 follows:

2 (a) Except as provided by Section 37.125, a person commits
3 an offense if the person intentionally disrupts, prevents, or
4 interferes with the lawful transportation of children:

5 (1) to or from school on a vehicle owned or operated by
6 a county or independent school district; or

7 (2) to or from [ex] an activity sponsored by a school
8 on a vehicle owned or operated by a county or independent school
9 district.

10 (c) It is an exception to the application of Subsection
11 (a)(1) that, at the time the person engaged in conduct prohibited
12 under that subdivision, the person was a student in the sixth grade
13 or a lower grade level.

14 SECTION 6. Section 42.01, Penal Code, is amended by adding
15 Subsection (f) to read as follows:

16 (f) Subsections (a)(1), (2), (3), (5), and (6) do not apply
17 to a person who, at the time the person engaged in conduct
18 prohibited under the applicable subdivision, was a student in the
19 sixth grade or a lower grade level, and the prohibited conduct
20 occurred at a public school campus during regular school hours.

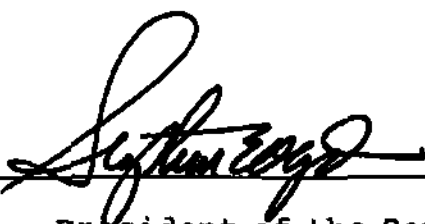
21 SECTION 7. The commissioner of education shall adopt rules
22 as provided by Section 37.0021(i), Education Code, as added by this
23 Act, as soon as practicable after the effective date of this Act.

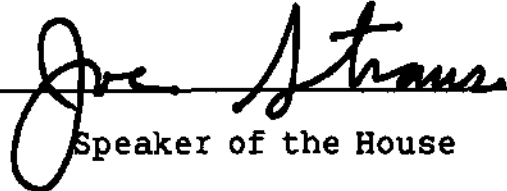
24 SECTION 8. The change in law made by Sections 37.124,
25 Education Code, 37.126, Education Code, and 42.01, Penal Code, as
26 amended by this Act, applies only to an offense committed on or
27 after the effective date of this Act. An offense committed before

1 the effective date of this Act is governed by the law in effect on
2 the date the offense was committed, and the former law is continued
3 in effect for that purpose. For purposes of this section, an
4 offense was committed before the effective date of this Act if any
5 element of the offense occurred before that date.

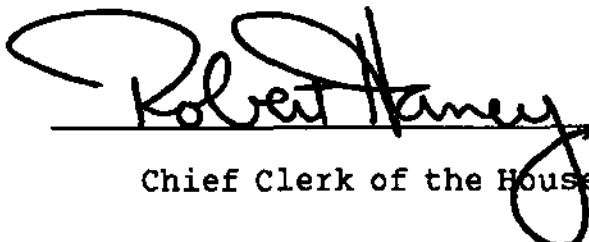
6 SECTION 9. This Act applies beginning with the 2011-2012
7 school year.

8 SECTION 10. This Act takes effect immediately if it
9 receives a vote of two-thirds of all the members elected to each
10 house, as provided by Section 39, Article III, Texas Constitution.
11 If this Act does not receive the vote necessary for immediate
12 effect, this Act takes effect September 1, 2011.


President of the Senate

H.B. No. 359

Speaker of the House

I certify that H.B. No. 359 was passed by the House on May 13, 2011, by the following vote: Yeas 84, Nays 55, 4 present, not voting; and that the House concurred in Senate amendments to H.B. No. 359 on May 25, 2011, by the following vote: Yeas 80, Nays 64, 3 present, not voting.


Chief Clerk of the House

I certify that H.B. No. 359 was passed by the Senate, with amendments, on May 23, 2011, by the following vote: Yeas 29, Nays 2.

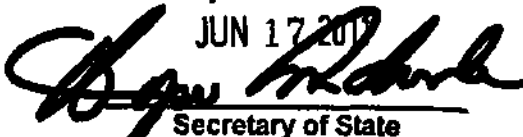

Secretary of the Senate

APPROVED: 17 JUN '11

Date


Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
4pm O'CLOCK

JUN 17 2011

Secretary of State